

CHEN, J.

AG:ANW  
F. #2016R01189

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

MISC 17 - 0032

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IN THE MATTER OF AN APPLICATION  
FOR A SEARCH WARRANT FOR:

THE PERSON KNOWN AND  
DESCRIBED AS TYSON  
JEFFRIES, DATE OF BIRTH [REDACTED]  
[REDACTED], 1987, AND NEW YORK STATE  
IDENTIFICATION NUMBER  
[REDACTED].

AFFIDAVIT IN SUPPORT  
OF APPLICATION FOR A  
SEARCH WARRANT

(Fed. R. Crim. P. 41; T. 18,  
U.S.C., §§ 922(g)(1), 924(a)(2),  
924(d))

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EASTERN DISTRICT OF NEW YORK, SS:

BRITTANY M. RAFFA, being duly sworn, deposes and states that she is a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, duly appointed according to law and acting as such.

Upon information and belief, there is probable cause to believe that evidence of a violation of Title 18, United States Code, Sections 922(g)(1), to wit: that TYSON JEFFRIES, date of birth [REDACTED] 1987 and New York State Identification Number [REDACTED] (the “defendant”), having previously been convicted of a crime punishable by a term of imprisonment exceeding one year and constituting a felony, knowingly and intentionally possessed in and affecting commerce a firearm, to wit, a Fabrique National 9 millimeter

semiautomatic pistol and ammunition, on or about June 5, 2016, will be obtained by the taking, and preserving as evidence, of a buccal swab sample or blood sample of the defendant.<sup>1</sup>

The source for your deponent's information and the grounds for his belief are as follows:<sup>2</sup>

I am a Special Agent of the Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"). I have been involved in an investigation of the defendant for being a felon in possession of a firearm, in violation of Title 18, United States Code, Section 922(g)(1). The facts set forth in this affidavit are based upon my own investigation of the facts and upon what I have learned from other individuals who have participated in the investigation. Additionally, statements attributable to individuals herein are set forth in sum and substance and in part.

1. I have reviewed the Affidavit and Complaint in Support of Application for Arrest Warrant in this case. (See United States v. Tyson Jeffries, 16-CR-451 (PKC), ECF No. 1.) As described therein, the defendant TYSON JEFFRIES was arrested on or about June 5, 2016, by New York City Police Department ("NYPD") officers. One of the arresting officers observed the defendant throw a firearm into a grassy area on Centre Mall behind 22 Mill Street in Brooklyn, New York, after he ran

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<sup>1</sup> While some courts have found that a saliva sample can be obtained pursuant to a grand jury subpoena, see In re Vickers, 38 F. Supp. 2d 159, 165-68. (D.N.H. 1998) (permitting saliva sample by grand jury subpoena), other courts have found that obtaining DNA via saliva is subject to the protections of the Fourth Amendment. See United States v. Nicolosi, 885 F. Supp. 50, 51-56 (E.D.N.Y. 1995) (Glasser, J.).

<sup>2</sup> Because the purpose of this affidavit is to set forth only those facts necessary to establish probable cause to search, I have not set forth all of the facts and circumstances relevant to this investigation.

from officers who had yelled for him to stop. After the defendant TYSON JEFFRIES was arrested, NYPD officers recovered a Fabrique National 9 millimeter semiautomatic pistol, magazine and ammunition that the defendant tossed when he was fleeing from the police.

2. On or about August 10, 2016, a grand jury in the Eastern District of New York returned a one-count indictment charging the defendant TYSON JEFFRIES with possession of a firearm after having previously been convicted of a felony, in violation of 18 U.S.C. § 922(g)(1). (See United States v. Tyson Jeffries, 16-CR-451 (PKC), ECF No. 11.)

3. The Department of Forensic Biology of the New York City Office of the Chief Medical Examiner (“OCME”) advises that it has recovered usable DNA material from the SUBJECT EVIDENCE, and that it has compared that DNA material to DNA material recovered from the bottle of water that the defendant drank from and abandoned while in custody on or about the day of his arrest. This comparison revealed that DNA material recovered from the bottle of water that the defendant abandoned matched DNA material recovered from the SUBJECT EVIDENCE. In order to confirm that DNA material recovered from the bottle of water that the defendant abandoned and/or the SUBJECT EVIDENCE is the defendant’s, the OCME requires a DNA sample retrieved from the defendant directly to perform and complete its analysis. The OCME also advises that it requires a buccal swab sample or blood sample from the defendant to obtain the necessary DNA material.

4. Based on the above information, there is probable cause to believe that the defendant TYSON JEFFRIES may be a source of or contributor to DNA evidence found in or on the SUBJECT EVIDENCE. Therefore, there is probable cause to believe that a

buccal swab or sample of his blood would constitute evidence of the defendant's commission of the charged crimes.

WHEREFORE, your deponent requests that a search warrant be issued authorizing ATF Special Agents, NYPD officers, United States Marshals and other appropriate law enforcement and support personnel to seize and obtain from the defendant TYSON JEFFRIES a buccal swab sample or, alternatively, a sample of blood.<sup>3</sup> An appropriately trained law enforcement officer, or an appropriately trained designee, will perform the cheek swabbing. The DNA samples sought herein will be collected by buccal swabbing. This method involves taking a sterile swab and gently scrubbing the inside right cheek, then the inside left cheek, for approximately five to ten seconds. Two samples are requested in the event that one of the samples becomes contaminated or otherwise cannot be tested. The samples seized will be subsequently submitted to a forensic laboratory for examination and will be subject to examination, testing and analysis. A blood sample will only be sought in the event that TYSON JEFFRIES refuses to submit to a buccal cheek

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<sup>3</sup> The defendant is currently out on bond. Law enforcement intends to execute the search during the defendant's January 5, 2017 court appearance.

swab. In the event that a blood sample is taken, a licensed doctor or nurse or other qualified medical practitioner will take the sample.

  
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BRITTANY M. RAFFA  
Special Agent  
Bureau of Alcohol, Tobacco, Firearms and  
Explosives

Sworn to before me this  
4th day of January, 2017

S/ PKC

THE HONORABLE PAMELA K. CHEN  
UNITED STATES DISTRICT JUDGE  
EASTERN DISTRICT OF NEW YORK